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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,275	03/23/2001	Manus P. Henry	02052-104001 / GML2209	4576
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FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			EXAMINER NGHIEM, MICHAEL P	
			ART UNIT 2863	PAPER NUMBER

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/815,275

Applicant(s)

HENRY ET AL.

Examiner

Michael P Nghiem

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,10-13,15-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,6,14 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 29 August 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

The Amendment filed on August 29, 2003 has been acknowledged.

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a

nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7, 8, 10-13, 15-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (US 5,774,378).

Yang discloses all the claimed features of the invention including:

- a multi-level (hierarchical) process monitoring system (Fig. 1) comprising:

- a process monitoring unit (16), at a higher level of the system, and a plurality of sensors (12's) at a lower level of the system (Fig. 1), at least one of the sensors having SEVA capability (Abstract, lines 1-2), the sensors being adapted to provide respective measurement values of respective process variables to said monitoring unit (Fig. 1), said monitoring unit being so arranged as to monitor the outputs of the sensors and to identify any significant apparent change in the process conditions based on a

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comparison of an overview of said sensor outputs with reference information (column 4, lines 49-53), and on detection of an apparent significant change, to request additional status information from at least one of the SEVA sensor/s (column 4, lines 46-49) to determine whether the apparent change is in reality due to a change in the characteristics of a particular SEVA sensor rather than an actual significant change in the process conditions (column 4, line 65 - column 5, line 15);

- the reference information is comprised of predictions of a model and/or historical data of stored statistical analysis (column 5, lines 1-15);

- most of the sensors are SEVA sensors (Fig. 1);

- the monitoring unit obtains the overview using a multivariate statistical analysis of the measurement values of the sensors (different alarm levels are used, column 4, lines 51-53), and compares the results of that analysis with the reference information (predetermined limit, column 4, line 50) to identify any significant apparent change in process conditions, to determine whether or not to initiate interrogation of the SEVA sensor/s (column 4, lines 46-53);

- the request for additional status information initiates the application of a non-routine test in or to at least one of the SEVA sensor/s (column 7, line 62 - column 8, line 12);

- at least some SEVA sensors measure the same variable, and the SEVA measurements (VMV, VU and MV status) of the same variable are combined to generate a best estimate (column 4, lines 22-28).

Allowable Subject Matter

3. Claims 2, 6, 14, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

4. The combination as claimed wherein a process monitoring system comprising one or more actuators to provide the monitoring unit with actuator position signals is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

5. Applicant's arguments filed on August 29, 2003 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections, Applicants argue that Yang does not disclose or properly suggest that a request is caused by a comparison of an overview of said sensor outputs with reference information.

Examiner's position is that Yang discloses "...said monitoring unit (16) being so arranged as to monitor the outputs of the sensors (column 4, lines 46-49) and to identify

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any significant apparent change in the process conditions based on a comparison of an overview of said sensor outputs with reference information (column 4, lines 47-53)”

Applicants further argue that the control system (16) of Yang does not determine whether the apparent changes is in reality due to a change in the characteristics of a particular SEVA sensor rather than an actual significant change in the process conditions.

Examiner’s position is that Yang discloses that the control system (16) of Yang, via 24, determines whether the apparent change is in reality due to a change in the characteristics of a particular SEVA sensor rather than an actual significant change in the process conditions (column 4, line 65 - column 5, line 15).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



MICHAEL NGHIEM
PRIMARY EXAMINER
Michael Nghiem

November 4, 2003